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Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime
First session
Vienna, 19-29 January 1999
Item 4 of the provisional agenda*
Consideration of the draft convention against transnational organized crime

Report on the third session of the informal working group established to assist the Chairman of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, held at Vienna from 5 to 6 November 1998

1. The informal working group established to assist the Chairman of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime (the informal group of the "Friends of the Chair") held its third session at Vienna from 5 to 6 November 1998. The following countries were represented: Argentina, Australia, Austria, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Ecuador, Finland, France, Germany, Guatemala, Italy, Japan, Mexico, Morocco, Netherlands, Norway, Paraguay, Peru, Philippines, Poland, Romania, Russian Federation, Spain, Sudan, Sweden, Switzerland, Tunisia, Turkey, United Kingdom of Great Britain and Northern Ireland and United States of America. The European Commission and the United Nations International Drug Control Programme were represented by observers.

2. The third session was opened by Ronald Miklau, Head of the Criminal Law Directorate of the Ministry of Justice of Austria. The third session was chaired by Luigi Lauriola (Italy), who was to be elected Chairman of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime.

3. The informal group of the "Friends of the Chair" adopted the following agenda:

1. Adoption of the provisional agenda and organization of work.
2. Provisional agenda and organization of work for the first session of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime.
3. Consultations on issues to be discussed by the Ad hoc Committee at its first session.

*A/AC.254/1.

4. The informal group had before it drafts of the following documents:

(a) Annotated provisional agenda and proposed organization of work of the first session of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime (A/AC.254/1);

(b) Report of the informal preparatory meeting of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, held at Buenos Aires from 31 August to 4 September 1998 (A/AC.254/3);

(c) Draft United Nations Convention against Transnational Organized Crime (A/AC.254/4);

(d) Elements for an international legal instrument against illegal trafficking in and transporting of migrants: proposal submitted by Austria and Italy (A/AC.254/4/Add.1);

(e) Draft protocol against the illicit manufacturing of and trafficking in firearms, ammunition and other related materials supplementary to the United Nations Convention against Transnational Organized Crime: proposal submitted by Canada (A/AC.254/4/Add.2).

5. Some participants expressed concern about the lack of interpretation at the third session, which in their view limited their ability to fully participate in the work of the informal group. A representative of the Secretariat explained that no conference facilities were currently available at the Vienna International Centre and that, consequently, it had organized the third session at the Ministry of Justice of Austria, with the support of the Ministry of Justice and the Ministry of Foreign Affairs of Austria. The logistical difficulties involved and the lack of resources had made the provision of interpretation impossible. The Secretariat would make every effort to secure interpretation services in English, French and Spanish for subsequent sessions of the informal group, provided that there was no departure from the provisional timetable that the informal group had approved at its second session, held at Buenos Aires on 3 September 1998 (A/AC.254/3, annex I, appendix).

6. The informal group reviewed the provisional agenda and proposed organization of work for the first session of the Ad Hoc Committee. Several participants were of the view that the time allocated to the discussion of the additional international legal instruments should allow at least a first reading of the draft texts. The draft texts of the legal instrument against illegal trafficking in and transporting of migrants and the legal instrument against the illicit manufacturing of and trafficking in firearms, ammunition and other related materials had already been submitted. The Governments of Argentina and the United States had announced their intention to submit to the Secretariat by the end of November 1998 elements for a draft international legal instrument against trafficking in women and children. There was also considerable discussion on the desirability and feasibility of holding informal consultations during the sessions of the Ad Hoc Committee on the additional international legal instruments, in view of the expertise required for their elaboration. It was understood that it remained the prerogative of States to meet and consult informally in their efforts to reach consensus on matters related to the elaboration of the convention against transnational organized crime and the additional instruments. However, the informal group attached considerable importance to ensuring the transparency of the negotiation process and the maximum participation of States. Furthermore, it was essential to maintain the appropriate balance in the elaboration of the convention and the additional instruments. Therefore, the informal group agreed that the Ad Hoc Committee should avoid, to the extent possible, establishing separate groups to discuss the drafts of the additional instruments. The informal group also agreed that, at the first session of the Ad Hoc Committee, to be held from 19 to 29 January 1999, one and one half days should be allocated to the discussion of the draft legal instrument against illegal trafficking in and transporting of migrants and one and one half days should be allocated to the discussion of the draft legal instrument against illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, while the draft legal instrument against trafficking in

women and children should be only introduced and should be discussed at the second session of the Ad Hoc Committee, to be held from 8 to 12 March 1999.

7. The informal group endorsed the provisional agenda and proposed organization of work for the first session of the Ad Hoc Committee. A representative of the Secretariat stated that the provisional agenda and proposed organization of work would accompany the letter of invitation to the first session of the Ad Hoc Committee, in order to allow States to include the appropriate expertise in their delegations.

8. The informal group requested the Secretariat to explore the possibility of converting the session of the informal group of the "Friends of the Chair" to be held from 5 to 9 July 1999 into a session of the Ad Hoc Committee. The Secretariat would inform the Ad Hoc Committee at its first session whether the additional cost could be absorbed.

9. The representatives of Austria and Italy introduced the draft of the legal instrument against illegal trafficking in and transporting of migrants, and the representative of Canada introduced the draft legal instrument against the illicit manufacturing of and trafficking in firearms, ammunition and other related materials. Both of those draft legal instruments had been submitted for the consideration of the Ad Hoc Committee. The informal group was of the view that the draft texts were a sound basis for further discussion and work on the elaboration of the instruments. The representative of the United States submitted comments on the draft legal instrument introduced by the representative of Canada, to be distributed as part of the official documentation of the Ad Hoc Committee.

10. The informal group held an extensive discussion on the scope of application of the convention. Several participants were of the view that the scope of the convention should be flexible to allow for specific provisions that were intended as practical tools to be considered individually for the purpose of enhancing their relevance and efficiency. It was emphasized that the convention should be an instrument that would facilitate the prevention, investigation, prosecution and adjudication of cases involving transnational organized crime. Therefore, it was generally deemed important to ensure the ease of application, as well as the effectiveness and efficiency, of the new instrument. The representative of the United States submitted proposals on the scope of application of the convention, to be distributed as part of the official documentation of the Ad Hoc Committee.

11. One representative reiterated the position of his Government that the convention should contain a list of offences that included terrorist acts.

12. The Chairman noted with satisfaction the high level of the discussion and the apparent convergence of views on the question of the scope of application of the convention. The informal group agreed that the Ad Hoc Committee should carry out its important functions in a spirit of flexibility and pragmatism. Any remaining difficulties in resolving the issue of the scope of application should not be allowed to hamper progress in the negotiations. Thus, the Ad Hoc Committee might wish to proceed with the negotiation of other provisions, returning regularly to the provisions on the scope of application to ensure consistency.